

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARK RICKNER and HEIDI RICKNER,

Plaintiffs,

V.

ALLSTATE INSURANCE COMPANY,

Defendant.

C19-5857 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion for summary judgment, docket no. 54, is DENIED. Defendant Allstate Insurance Company has not met its burden of establishing an absence of genuine disputes of material fact and entitlement to judgment as a matter of law. See Fed. R. Civ. P. 56(a).¹

¹ Plaintiffs' motion, docket no. 64, to strike Pierce County Sheriff incident reports submitted by defendant in support of its motion, see Exs. C–F to Leid Decl. (docket no. 56), is STRICKEN as moot. Even if the statements in the reports are considered for the truth of the matters asserted, they do not, alone or in combination with other evidence, demonstrate, as a matter of law, that plaintiffs "intentionally concealed, engaged in fraud or misrepresented any material fact or circumstance that exist[ed] at the time of [the] loss" at issue. See Deluxe Plus Homeowners Policy at 6, Ex. B to Leid Decl. (docket no. 14 at 30). Rather, the reports raise questions of fact concerning whether the "domestic abuse" exception to the "misrepresentation, fraud or concealment" exclusion might apply. See id. (indicating that the exclusion "does not apply to covered property damage sustained by an insured person if the property damage was caused by an act of domestic abuse by another insured person").

6 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 9th day of April, 2021.

William M. McCool
Clerk

s/Gail Glass
Deputy Clerk